

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

ARCELORMITTAL INDIANA HARBOR LLC)	
and ARCELORMITTAL USA LLC,)	
)	
Plaintiffs,)	
)	
vs.)	No. 2:15-cv-00195-RL-PRC
)	
AMEX NOOTER, LLC,)	
)	
Defendant.)	

AMEX NOOTER, LLC MOTION FOR SANCTIONS

Amex Nooter LLC (“Amex Nooter”) moves to sanction ArcelorMittal Indiana Harbor LLC and ArcelorMittal USA LLC (“ArcelorMittal”) for its failure to identify and produce documents used in support of its claims and defenses that have been in its possession for over three and a half years and in July, 2013 were provided to its designated testifying expert as materials and references that he relied upon in formulating his opinions. Fed. R. Civ. Pro. 37 (c)(1) and Rule 37 (b)(2)(A)(i) – (vi).

1. ArcelorMittal disclosed its designated testifying expert, Donald J. Hoffmann (“Hoffmann”), on February 8, 2017.

2. Hoffmann’s Report identified the file materials and documents that he relied upon in performing his analysis and rendering his opinions, some of which he received, or were made available to him, in July, 2013, and perhaps earlier.

3. In response to Amex Nooter’s February 8, 2017 request, on March 14, 2017, ArcelorMittal produced 1318 pages of material consisting of that portion of Hoffmann’s file that had not been previously disclosed to Amex Nooter in ArcelorMittal’s Rule 26 disclosures, responses to discovery, and supplemental disclosures and responses.

4. Included in the March 14, 2017 production of Hoffmann's files were numerous documents prepared and maintained by ArcelorMittal that are central to the issues in the litigation that were provided or made available to Hoffmann as early as July, 2013, but withheld from Amex Nooter.

5. The reasons and bases for Amex Nooter's motion are more fully set forth in Amex Nooter's supporting memorandum filed contemporaneously with this motion. (Doc. 126)

WHEREFORE, Amex Nooter, LLC respectfully asks that this Court grant its Motion for Sanctions and bar Donald J. Hoffmann from testifying on behalf of ArcelorMittal. Alternatively, Amex Nooter asks that the court extend Amex Nooter's expert disclosure deadline until after (a) ArcelorMittal identifies the authors of the newly produced documents; (b) Amex Nooter re-deposes ArcelorMittal employees Robert Creese, William Emery and Frank Peters on what is contained in the newly produced documents, and (c) Amex Nooter deposes for the first time ArcelorMittal employees Veronica Chambers, Kristin Miller, Larry Vickery, and the authors of the newly disclosed material. In addition, Amex Nooter also alternatively seeks from ArcelorMittal all costs and expenses incurred for conducting these depositions, an adverse jury instruction, and all other relief this Court may deem just and reasonable.

Dated: March 22, 2017

By: /s/ Sava Alexander Vojcanin

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Counsel for Defendant Amex Nooter, LLC

Certificate of Service

The undersigned hereby certifies that on the 22nd day of March, 2017, he electronically filed the foregoing Amex Nooter LLC Motion for Sanctions with the Clerk of the Court using CM/ECF system which sent notification of such filing to the parties who are registered participants with the System.

By: /s/ Sava Alexander Vojcanin
Sava Alexander Vojcanin